

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

GOLDEN SUNRISE NUTRACEUTICAL,
INC., et al.,

Defendants.

No. 1:20-cv-01060-DAD-SKO

ORDER SETTING BRIEFING SCHEDULE
AND HEARING ON PLAINTIFF'S MOTION
FOR A TEMPORARY RESTRAINING
ORDER

(Doc. No. 3)

On July 31, 2020, plaintiff filed a motion for a temporary restraining order in this action. (Doc. No. 3.) Therein, plaintiff seeks an order restraining defendants from further violations of 15 U.S.C. §§ 45(a), 52, as alleged in the complaint; requiring defendants to show cause why this court should not issue a preliminary injunction extending such temporary relief pending a final adjudication on the merits; restraining defendants from destroying or disposing of business records or clinical tests or studies; restraining defendants from releasing consumers' personal information; requiring defendants to report to plaintiff any new business activity; requiring defendants to provide a copy of the entered temporary restraining order to their employees and affiliates; requiring defendants to suspend the collection of accounts for the products covered by the temporary restraining order; and requiring defendants to submit to expedited discovery by plaintiff. (*Id.* at 2.)

1 In a declaration attached to the pending motion, plaintiff's counsel noted that plaintiff
2 intended to notify defendants of the filing of its complaint and its motion for a temporary
3 restraining order in this action by phone and email and serving defendants via Federal Express.
4 (Doc. No. 3-15 at 2.) Plaintiff's counsel also stated that he would "file a supplemental Certificate
5 of Counsel Pursuant to Local Rule 231(c)(5) after completing the steps discussed above." (*Id.*)
6 By minute order, the court indicated it had preliminarily reviewed the pending motion for a TRO
7 and intended on granting the motion, unless defendants filed an opposition and/or requested a
8 hearing by 2:00 p.m. PST on August 3, 2020. (Doc. No. 7.) The court directed plaintiff to serve
9 that minute order on defendants and to thereafter file documentation with the court outlining the
10 steps it has taken to effectuate such service. (*Id.*)

11 On August 1, 2020, plaintiff filed a supplemental certificate of counsel explaining that it
12 had yet to receive confirmation that service has been effectuated, and attempts to follow up with
13 the server by phone and email had been unsuccessful. (Doc. No. 8 at ¶ 6.) Additionally,
14 plaintiff's counsel declared that he spoke with defendant Meis on the telephone, and defendant
15 Meis provided contact information for an attorney he had retained. (*Id.*) However, when
16 plaintiff's counsel contacted the attorney, that attorney stated that he would not be representing
17 defendant Meis in this action and would be referring this matter to another lawyer. (*Id.*)
18 Plaintiff's counsel requested the attorney to forward the filings accordingly. (*Id.*)

19 Plaintiff's counsel states that while he could not reach any of the other defendants by
20 phone or leave voicemails, plaintiff's counsel did send the complaint and motion by email to all
21 defendants. (*Id.* at ¶ 12.) Additionally, plaintiff's counsel provided a copy of the minute order
22 (Doc. No. 7) to the process server and requested that they either include it with the documents if
23 they were still attempting to serve defendants or re-serve defendants with the minute order. (Doc.
24 No. 8 at ¶ 9.) Plaintiff's counsel also sent a second email to all defendants, which included a
25 copy of the court's minute order. (*Id.* at ¶ 10.) Plaintiff has not received any replies, but
26 plaintiff's counsel declares that he used read receipts and received an alert that his second email
27 with the minute order attached was opened by defendant Huu Tieu. (*Id.* at ¶ 12.) Plaintiff's
28 counsel notes that because defendant Tieu is an officer of both defendants Golden Sunrise

1 Pharmaceutical, Inc. and Golden Sunrise Nutraceutical, Inc., notice has effectively been
2 effectuated for the two corporate defendants. (*Id.*)

3 On August 3, 2020, attorney Kevin Rooney contacted the court by email to notify the
4 court that he would not be representing defendant Meis in this civil action, but that defendant
5 Meis intended to request a hearing on plaintiff's motion for a TRO and will be obtaining counsel.

6 Accordingly, defendants will be provided with an opportunity to file a response to
7 plaintiff's motion for a temporary restraining order by 12:00 p.m. PST on August 4, 2020. A
8 hearing on plaintiff's motion will be held on August 5, 2020 at 10:00 a.m. PST before District
9 Judge Dale A. Drozd. The parties must appear by video or telephonically. The undersigned's
10 Courtroom Deputy Jami Thorp (jthorp@caed.uscourts.gov) will email the parties with dial-in or
11 log-in information before the hearing. The Clerk of the Court is directed to serve a copy of this
12 order on attorney Kevin Rooney for defendant Stephen Meis and attorney Rooney is requested to
13 forward this order to the appropriate counsel representing defendant Meis in this action if
14 possible. The court will also attempt to contact attorney Edgar Sevilla—who has been retained
15 by defendant Tieu in another action pending before this court, *see United States v. Tieu*, 1:20-cr-
16 00109-DAD-BAM—on August 3, 2020 to forward this order to defendant Tieu so that he is
17 provided the opportunity to file an opposition to the pending motion for a TRO prior to the
18 hearing.

19 IT IS SO ORDERED.

20 Dated: August 3, 2020

21 
UNITED STATES DISTRICT JUDGE